

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

YANCEY DANSBY,

Civ. No. 09-172-CL

Plaintiff,

v.

ORDER

D.A. LORRI FELLOWS and
JUDGE JULIE FRANZ,

Defendants.

PANNER, District Judge:

Magistrate Judge Mark D. Clarke filed a Report and Recommendation, and the matter is now before this court. See 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b). Plaintiff has filed a response, which I will treat as an objection. I have reviewed the file of this case de novo. 28 U.S.C. § 636(b)(1)(C); McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F. 2d 1309, 1313 (9th Cir. 1981).

I find no error in the Report and Recommendation. Plaintiff cannot state a civil rights claim against the assistant district

attorney who prosecuted him, or against the state court judge who sentenced him.

In his response to the Report and Recommendation, plaintiff asks this court to "take a second look at my sentence and allow it to be modified." As Magistrate Judge Clarke notes, habeas corpus is the exclusive remedy for a state prisoner seeking to challenge the fact or duration of confinement.

CONCLUSION

Magistrate Judge Clarke's Report and Recommendation (#5) is adopted. This action is dismissed with prejudice for failure to state a claim. Dismissal is without prejudice to plaintiff's right to seek habeas corpus relief.

IT IS SO ORDERED.

DATED this _____ day of April, 2009.

OWEN M. PANNER
U.S. DISTRICT JUDGE